

When necessary, the Board may go into Executive Session intermittently throughout the meeting for discussion and consultation for legal advice regarding any of the agenda items. A.R.S. § 38-431.03 (A)(3). The Board may also go into Executive Session to discuss personnel matters A.R.S. § 38-431.03 (A)(1), records exempt by law from public inspection A.R.S. § 38-431.03(A)(2) or for legal advice and consultation regarding pending or contemplated litigation A.R.S. § 38-431.03 (A)(4). The Board reserves the right to change the order of items on the Agenda and to call cases in random order.

## **I. CALL TO ORDER AND ROLL CALL**

P. Dianne Haydon, D.C., Chairperson called the meeting to order at 8:00 a.m.

The roll was called by Patrice A. Pritzl, Executive Director. The following Board members were available by telephone at roll call: P. Dianne Haydon, D.C., Chairperson; S. Steven Baker, D.C., Vice-Chairperson; and Susan Wenberg, Member. Francisco Heredia, Member was not available for this telephone conference call.

Attendance: Elizabeth Campbell, Assistant Attorney General; Patrice A. Pritzl, Executive Director, Pamela J. Paschal, Deputy Director/Investor and Merrie Jo Hamilton, Administrative Assistant were present.

## **II. REVIEW, DISCUSSION AND ACTION ON BOARD MEETING MINUTES**

### **Tab 01 Board to approve meeting minutes of Thursday, June 18, 2009.**

After review and discussion, a motion was made by Dr. Baker and seconded by Dr. Wenberg to approve regular session Board meeting minutes of Thursday, June 18, 2009, as corrected.

Motion passed 3-0-0-1-0-1

3-Yes      0-No      0-Abstained      1-Absent      0-Recused      1-Vacant

Absent:      Francisco Heredia, Member

### **Tab 02 Board to approve executive session minutes of Thursday, June 18, 2009 at 10:03 a.m. to 10:09 a.m.**

After review and discussion, a motion was made by Dr. Baker and seconded by Dr. Wenberg to approve regular session Board executive session minutes of Thursday, April 30, 2009, as corrected.

Motion passed 3-0-0-1-0-1

3-Yes      0-No      0-Abstained      1-Absent      0-Recused      1-Vacant

Absent:      Francisco Heredia, Member

**III. REVIEW, DISCUSSION AND ACTION ON A CONSENT AGREEMENT**

**Tab 03      2009-107      David W. Yancey, D.C.      Applicant #2009120**

Dr. Yancey was present and was not represented by legal counsel.

Ms. Pritzl reported that the licensure application of Dr. Yancey was reviewed during a previous Board meeting and, at that time, the Board stated that it would consider approving Dr. Yancey's license application if Dr Yancey would agree to enter into a proposed Consent Agreement and Order. Ms. Pritzl further reported that Dr. Yancey has agreed and signed the proposed Consent Agreement and Order for Issuance of License and Letter of Concern.

The Board was presented with a proposed Consent Agreement and Order for David W. Yancey, D.C. The Board reviewed the proposed Consent Agreement and Order.

After review and discussion, a motion was made by Dr. Baker and seconded by Dr. Wenberg to adopt the proposed Consent Agreement and Order for Issuance of License and Letter of Concern for David W. Yancey, D.C. as presented.

Motion passed 3-0-0-1-0-1

3-Yes      0-No      0-Abstained      1-Absent      0-Recused      1-Vacant

Absent:      Francisco Heredia, Member

Patrice A. Pritzl, Executive Director, conducted a roll call for this agenda item.

Yes    P. Dianne Haydon, D.C., Chairperson  
Yes    S. Steven Baker, D.C., Vice-Chairperson  
Yes    Susan Wenberg, D.C., Member

Absent:    Francisco Heredia, Member

A viewable copy of the Board's decision is available, in its entirety, at the Board Office, 5060 North 19<sup>th</sup> Avenue, Suite 416, Phoenix, Arizona 85015.

#### **IV. REVIEW, DISCUSSION AND ACTION ON MOTION FOR REVIEW OF DECISION**

**Tab 04      2008-093                      Richard L. Ornelas, Sr., D.C.      License #615  
Active**

Dr. Ornelas was not present and was not represented by legal counsel.

The Board reviewed the Motion for Review of Decision filed by Dr. Ornelas.

The Board explained that its consideration of this matter was limited as to whether there is a basis for a rehearing and/or review established by correspondence received requesting the Board to reconsider the continuing education in x-ray review and patient boundaries.

Dr. Haydon introduced herself (P. Dianne Haydon, D.C., Chairperson) and asked that the members of the Board, Board staff and legal representation introduce themselves at this time.

Also present were S. Steven Baker, D.C., Vice Chair; Susan Wenberg, D.C., Member; Patrice Pritzl, Executive Director; Pam Paschal, Deputy Director; and Elizabeth Campbell, Assistant Attorney General.

Dr. Haydon outlined the proceedings and explained that under the Board's rule regarding review or rehearing R4-7-305(A), the Board may grant a review or rehearing of a Board decision for any of the following causes materially affecting the licensee's rights:

1. Irregularity in the administrative proceedings of the Board or any order or abuse of discretion, that deprives the Professional of a fair hearing.
2. Misconduct of the Board;
3. Accident or surprise that could not have been prevented by ordinary prudence;
4. Newly discovered material evidence that could not with reasonable diligence have been discovered and produced at the original hearing;
5. Excessive or insufficient penalties;
6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing; or
7. That the decision is not justified by the evidence or contrary to law.

Dr. Haydon stated that if the Board grants the request, it will specify the grounds on which the review or rehearing is granted, and the review or rehearing shall cover only those matters so specified. For example, if the Board granted review on the grounds of excessive penalty, the Board would then review the penalty to determine whether it is, in fact, excessive and after reviewing the penalty, the Board would either vote to affirm the penalty as previously ordered, or modify the previous penalty.

Dr. Haydon further stated that if the Board denies review or rehearing, the proceeding is concluded.

Dr. Haydon stated that the proceeding was being transcribed by a Court Reporter, Debra Moreash and requested that everyone speak loudly and clearly, and only one person should speak at a time.

The Board reviewed Dr. Ornelas' request to consider a motion for rehearing

The Board expressed concern with the two (2) reasons that Dr. Ornelas stated as a basis for review or reconsideration: 1) Continuing education in x-ray technique. Dr. Ornelas stated he believed this term was imposed because he failed to take the cervical open mouth x-ray. He stated that he is skillful in taking such a view; and 2) Continuing education in patient boundaries –in which he stated that he has already been evaluated and is aware that it is inappropriate to kiss a patient.

In deliberation, the Board noted that it had established a concern with improper x-ray technique, non-diagnostic x-rays and sexual boundaries violations. The Board noted that the Order appeared to be appropriate, specifically, the Order identified the problem and provided a solution.

Dr. Wenberg expressed her concerns with Dr. Ornelas referencing patient boundaries as "consult" and noted that the Order requires patient boundaries "continuing education" as opposed to consultation or evaluation.

Dr. Baker read into the record Findings of Fact, number 5 as follows:

"5. Additional, Respondent failed to take and use diagnostic quality x-rays in the assessment, diagnosis and treatment of the patient."  
Respondent failed to take a "complete cervical series, there was no lateral thoracic view taken and at least one film was over penetrated."

After review and discussion, a motion was made by Dr. Baker and seconded by Dr. Wenberg to deny the request from Richard L. Ornelas, Sr., D.C. for review of decision based on no basis on which to proceed.

Patrice A. Pritzl, Executive Director, conducted a roll call for this agenda item.

Yes P. Dianne Haydon, D.C., Chairperson  
Yes S. Steven Baker, D.C., Vice-Chairperson  
Yes Susan Wenberg, D.C., Member

Absent: Francisco Heredia, Member

**V. REVIEW, DISCUSSION AND ACTION ON BOARD BUSINESS**

**Tab 05 Elections**

**Election of Chairperson**

A motion was made by Dr. Baker and seconded by Dr. Wenberg to nominate and re-elect P. Dianne Haydon, D.C. as Chairperson of the Arizona Board of Chiropractic Examiners.

Motion passed 3-0-0-1-0-1

3-Yes      0-No      0-Abstained      1-Absent      0-Recused      1-Vacant

Absent: Francisco Heredia, Member

**Election of Vice Chairperson**

A motion was made by Dr. Baker and seconded by Dr. Haydon to nominate and elect Susan Wenberg, D.C. as Vice Chairperson of the Arizona Board of Chiropractic Examiners.

Motion passed 3-0-0-1-0-1

3-Yes      0-No      0-Abstained      1-Absent      0-Recused      1-Vacant

Absent: Francisco Heredia, Member

**VI. REVIEW, DISCUSSION AND ACTION ON LICENSURE BY EXAMINATION UPON PAYMENT OF APPROPRIATE FEES**

**Tab 06**

Upon recommendation and review of the candidates' application by Ms. Pritzl, a motion was made by Dr. Baker and seconded by Dr. Wenberg to grant eligibility for licensure by examination with payment of appropriate fees for the following doctors of chiropractic

Grant M. Andres, D.C.  
Barbara L. Fullerton, D.C.  
Derek A. Hacke, D.C.  
Irma J. Kaleta-Wenzel, D.C.  
Kate S. Youngs, D.C.

Motion passed 3-0-0-1-0-1

3-Yes      0-No      0-Abstained      1-Absent      0-Recused      1-Vacant

Absent:      Francisco Heredia, Member

**VII REVIEW, DISCUSSION AND ACTION ON PHYSIOTHERAPY CERTIFICATION APPLICATION EXAMINATION UPON PAYMENT OF APPROPRIATE FEES**

**Tab 07**

Upon recommendation and review of the candidates' application by Ms. Pritzl, a motion was made by Dr. Baker and seconded by Dr. Wenberg to grant eligibility for physiotherapy certification with payment of appropriate fees for the following doctors of chiropractic:

Grant M. Andres, D.C.  
Barbara L. Fullerton, D.C.  
Derek A. Hacke, D.C.  
Irma J. Kaleta-Wenzel, D.C.  
Kate S. Youngs, D.C.

Motion passed 3-0-0-1-0-1

3-Yes      0-No      0-Abstained      1-Absent      0-Recused      1-Vacant

Absent:      Francisco Heredia, Member

**VIII. REVIEW, DISCUSSION AND ACTION ON LICENSURE BY RECIPROCITY UPON PAYMENT OF APPROPRIATE FEES**

**Tab 08**

**Patsy Ann Williams-Lowe, D.C.**

Dr. Williams-Lowe was not present and was not represented by legal counsel.

Ms. Pritzl reported that Dr. Williams-Lowe had applied for licensure by reciprocity. Ms. Pritzl further reported that Dr. Williams-Lowe had completed all licensure requirements for licensure by reciprocity and that Board staff recommended that he be granted licensure by reciprocity at this time.

The Board noted that reciprocity was from the State of Colorado.

Upon recommendation and review of the application of, **Patsy Ann Williams-Lowe, D.C.** by Ms. Pritzl, a motion was made by Dr. Baker and seconded by Dr. Wenberg to approve licensure by reciprocity upon payment of the appropriate fees.

Motion passed 3-0-0-1-0-1

3-Yes      0-No      0-Abstained      1-Absent      0-Recused      1-Vacant

Absent:      Francisco Heredia, Member

**IX. REVIEW, DISCUSSION AND ACTION ON APPROVAL OF REINSTATEMENT OF LICENSE UPON PAYMENT OF APPROPRIATE FEES**

**Tab 09      John Q. Quackenbush, D.C.**

Ms. Pritzl reported that Dr. Quackenbush had applied for reinstatement of his license. Ms. Pritzl further reported that Dr. Quackenbush's application was complete and that Board staff recommended he be granted reinstatement of his license at this time.

Upon recommendation and review of Dr. Quackenbush's reinstatement application by Ms. Pritzl, a motion was made by Dr. Baker and seconded by Dr. Wenberg to approve license reinstatement of John Q. Quackenbush, D.C. upon payment of appropriate fees.

Motion passed 3-0-0-1-0-1

3-Yes      0-No      0-Abstained      1-Absent      0-Recused      1-Vacant

Absent:      Francisco Heredia, Member

**X. REVIEW, DISCUSSION AND ACTION ON CHIROPRACTIC ASSISTANT TRAINING COURSE APPLICATION**

**Tab 10 Lawrence Kasian, D.C.**

After review and discussion and upon recommendation and review of all completed requirements by Ms. Pritzl, a motion was made by Dr. Baker and seconded by Dr. Wenberg to approve the above-referenced Chiropractic Assistant Training Program.

Motion passed 3-0-0-1-0-1

3-Yes      0-No      0-Abstained      1-Absent      0-Recused      1-Vacant

Absent:      Francisco Heredia, Member

**XI. REVIEW, DISCUSSION AND ACTION ON RESCINDING OF C.A. TRAINING COURSE INSTRUCTOR APPROVAL**

**Tab 11**

**11A** Robert D. Larson, D.C. with Brian W. Grow 08/17/2009 through 11/19/2009

**11B** Gerald K. Gifford, D.C. with Michael R. Compton 08/17/2009 through 11/19/2009

Ms. Pritzl reported that the Agenda heading was incorrect and requested that the Board consider pending both matters this time.

The Board pended the matters referenced above until the August 2009 Board meeting.

**XII. REVIEW, DISCUSSION AND ACTION ON APPLICANTS WITH UNDISCLOSED MISDEMEANOR OR FELONY**

**Tab 12 David W. Yancey, D.C.**

The Board noted that this matter was addressed when Dr. Yancey signed the proposed Consent Agreement and Order for Issuance of License and Letter of Concern

The Board took no action for this agenda item.

### **XIII. CALL TO THE PUBLIC**

Those wishing to address the Board do not need to request permission in advance; however, the Board may limit those persons speaking during this time to a reasonable number on any given public matter. In addition, each person wishing to address the Board will be given five (5) minutes to do so. Pursuant to A.R.S. § 38-431.02(H), the Board can take action only on matters listed on the agenda. Action on public comment matters that are not listed on the agenda will be limited to directing staff to study the matter or to schedule the matter on a future Board agenda.

There was no request to address the Board.

### **XIV. ADJOURNMENT**

A motion was made by Dr. Baker and seconded by Dr. Wenberg to adjourn the meeting.

Motion passed 4-0-0-0-0-1

4-Yes      0-No      0-Abstained      0-Absent      0-Recused      1-Vacant

Meeting adjourned **Thursday, July 16, 2009 at 8:23 a.m.**

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P. Dianne Haydon, D.C., Chairperson

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Patrice A. Pritzl, Executive Director

**XIII. CALL TO THE PUBLIC**

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There was no request to address the Board.


**XIV. ADJOURNMENT**

A motion was made by Dr. Baker and seconded by Dr. Wenberg to adjourn the meeting.

Motion passed 4-0-0-0-0-1

4-Yes      0-No      0-Abstained      0-Absent      0-Recused      1-Vacant

Meeting adjourned **Thursday, July 16, 2009 at 8:23 a.m.**

  
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P. Dianne Haydon, D.C., Chairperson

  
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Patrice A. Pritzl, Executive Director